

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MELISSA M. NEWTON,

Plaintiff,

-against-

U.S. CENSUS BUREAU,

Defendant.

22-CV-2841 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

By order dated May 9, 2022, the Court dismissed Plaintiff's complaint without prejudice for her failure to pay the filing fee or submit an *in forma pauperis* application. (ECF No. 3.) The Court entered judgment the same day. (ECF 4.) On June 3, 2022, Plaintiff filed a notice of appeal and a motion for an extension of time to file a notice of appeal. (ECF Nos. 5-6.) In her motion seeking an extension of time to appeal, Plaintiff writes, "I am not sure that I am out of time." (ECF 5 at 1.)

Under Rule 4(a)(1)(A) of the Federal Rules of Appellate Procedure, a notice of appeal in a civil case must be filed within thirty days after entry of judgment. "[T]he taking of an appeal within the prescribed time is mandatory and jurisdictional." *In re WorldCom, Inc.*, 708 F.3d 327, 329 (2d Cir. 2013) (citation and internal quotation marks omitted). Because Plaintiff's June 3, 2022 notice of appeal was filed within thirty days after entry of the May 9, 2022 order dismissing this action, the notice of appeal is timely, and a motion for extension of time to appeal was unnecessary. Accordingly, Plaintiff's motion for extension of time to appeal is denied as moot.

CONCLUSION

Plaintiff's motion for an extension of time to file a notice of appeal (ECF 5) is denied as moot.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: September 26, 2022
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge